

**HOPKINS CROSSING NORTH  
DEVELOPMENT AGREEMENT**

THIS AGREEMENT is entered into by and between NORTH 10 CAPITAL ASSOCIATES, LTD., a Florida Limited Partnership ("NCA"), on behalf of itself and as Agent for and on behalf of High Ground Investments, L.L.C., Shallow Lakes Partners, L.L.C., and Capital Circle Development, L.L.C. (all hereafter collectively referred to as "Owners") and LEON COUNTY, FLORIDA ("COUNTY"), a political subdivision of the State of Florida.

**WITNESSETH**

WHEREAS, Owners have acquired approximately 305.54 acres of land (hereafter referred to as the "Property") located at the Northwest and Northeast corner of Interstate 10 and Capital Circle Northwest, the legal description of which is attached as Exhibit "A"; and

WHEREAS, the Property was part of the larger real estate holding owned by William D. Hopkins ("Hopkins") which, because of its size at 592 acres, was designated a Target Planning Area ("TPA") pursuant to Objective 6.1[L] of the Tallahassee-Leon 2010 Comprehensive Plan ("Comprehensive Plan") and Section 10-1233 of the Leon County Land Development Code ("Land Development Code"). The subdivision or development of any property designated as TPA must meet requirements of a Planned Unit Development ("PUD"), consist of at least four uses, and must be based on a master site plan covering all the TPA acreage; and,

WHEREAS, it is deemed to be in the interest of the public health, safety, and welfare for LEON COUNTY to clarify the development process and to assure that

overall planning principles and concerns of the COUNTY are addressed in order to encourage economic development opportunities for Northwest LEON COUNTY.

NOW, THEREFORE in consideration of the mutual terms, covenants, and conditions contained herein, and for Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is mutually agreed as follows:

(A) PURPOSE.

The purpose of this Agreement is to:

1. Provide a mechanism to allow the Property to proceed through the TPA PUD and subsequent development approval process separate from the Hopkins Crossing PUD.

2. Clarify the development approval process for the Property, including COUNTY acknowledgement that the uses to be included in a PUD for the Property will be at least four of the following: residential, commercial, office, open space, and community services and facilities/institutional use.

3. Set forth requirements and commitments for the TPA PUD in addition to those listed in the PUD submittal requirements of Sections 10-915 and 10-1481 of the Land Development Code and any TPA PUD requirements contained in the Comprehensive Plan.

4. This Agreement, except as specifically provided herein, is intended to address and clarify the development review and approval process. It is not intended to, nor does it, approve or authorize any amount of development or type of use on the Property, except as otherwise provided herein.

(B) AUTHORITY FOR AGREEMENT.

This Agreement is being entered into pursuant to authority provided in Sections 163.3220 - .3203, Florida Statutes ("F.S."), otherwise known as the Florida Local Government Development Agreement Act, and the Leon County Code of Laws. Since the Agreement is being entered into prior to NCA submitting the Property for PUD approval, the execution of this Agreement does not limit the authority or ability of the COUNTY to approve or disapprove the project resulting from this Agreement nor does it require that development be approved at certain densities or intensities or for certain uses, except as otherwise provided herein.

(C) TERM.

This Agreement shall be effective for a period of ten years, until \_\_\_\_\_ 2015, and may be extended by mutual written consent of the parties, or their successors, subject to public hearings in accordance with Section 163.3225, F.S.

(D) APPROVED LAND USES AND CONSISTENCY WITH COMPREHENSIVE PLAN.

1. The Property has been assigned a future land use designation of Mixed-Use A under the Comprehensive Plan and is designated a TPA pursuant to Objective 6.1[L] of the Comprehensive Plan. The Property has been platted into separate parcels, but the entire Property currently carries the same tax identification number for administrative convenience. The Property historically has been and currently is used for bona fide and lawful silvicultural operations. The County agrees that such existing operations may lawfully continue on the Property, if located outside of areas designated as conservation or preservation areas in the approved PUD Concept Plan, until such time as the Property is fully developed, or until issuance of site and development plan

approval for the specific portions of the Property on which silvicultural operations are being conducted.

2. The Comprehensive Plan requires that areas designated as TPA include at least four different land uses to encourage a more self-supporting development pattern that is less oriented to the use of automobiles. The Conceptual Use Plan, attached as Exhibit B and incorporated herein, will include at least four of the following land uses: residential, commercial, office, open space, and community services and facilities/institutional use. The Conceptual Use Plan is consistent with the Comprehensive Plan and the Land Development Code TPA requirements, and encourages a self-supporting development pattern that is less oriented to automobile use. As long as development of the Property is not inconsistent with the Conceptual Use Plan, separate uses, such as residential, commercial, office, and community services and facilities/institutional uses may proceed through the development process as independent PUDs without the need for each PUD to include at least four different land uses.

3. NCA, as Agent for Owners, may apply for, and if applied for the COUNTY shall issue, a Preliminary Certificate of Concurrence ("PCOC") and/or a Permitted Use Verification Certificate ("PUVC") for all or portions of the Property consistent with the Conceptual Use Plan. Neither the PUVC nor the PCOC grant development authority or development rights, and neither is a development order. The COUNTY and NCA recognize that the submission of both are for pre-application review purposes, and the COUNTY'S determination that the uses proposed for the Property are consistent with the Comprehensive Plan is limited to the proposed land uses. Detailed plans have not yet been reviewed by COUNTY staff. It is understood and agreed that the Property, independent of the remainder of the other property within the TPA, must meet all the requirements of the Comprehensive Plan and land development regulations pertaining to TPAs, except as otherwise provided herein.

(E) PUBLIC FACILITIES.

1. Infrastructure Planning and Design. Section 10-1233 of the Land Development Code requires that a TPA PUD must address how the development will reduce transportation demand through internal capture using a mixture of at least four integrated land uses such as residential, commercial, office, and open space. Pursuant to this provision, the TPA PUD Concept Plan for the Property must address the Project's access requirements, considering impacts to the surrounding area, including canopy roads, required interconnections, and consistency with existing and future transportation corridors. Property within the TPA must maximize the use of infrastructure to foster compact development. Capital improvement plans must be supportive of development in phases and shall include facilities needed, such as roads, sidewalks, bike lanes, mass transit/ride-share, recreation opportunities, water, and sewer. In order to comply with the TPA requirements imposed by the COUNTY, subdivision of the Property cannot occur without a master site plan, and sharing of infrastructure to foster compact development and predominantly self-supporting infrastructure may be required.

2. Utilities. Water, sanitary sewer, electricity and/or gas shall be provided by the City of Tallahassee. NCA shall be responsible for making the appropriate arrangements for such services to the Property, and such services shall be in place prior to issuance of a final certificate of occupancy in accordance with applicable Land Development Code provisions. The COUNTY agrees to allow the burial of electric power lines on the Property in accordance with applicable standards if desired by the owners of the separate portions of the Property and consistent with applicable Land Development Code requirements.

3. Transportation Concurrency.

(a) The COUNTY encourages NCA to timely apply for a PCOC for the Property. The COUNTY agrees to expeditiously process the application and issue the PCOC for the Property. Because of the size of the Property and the requirement to obtain PUD zoning, the COUNTY agrees that the capacity reserved through the PCOC shall continue to be reserved through the issuance of PUD zoning and the development of the

Property. The COUNTY agrees that the Property is located within the Plantation of the Florida Pecan Endowment Company Subdivision ("Pecan Endowment"). Based on the location of the Property in the Pecan Endowment and NCA's obligations under this Agreement to dedicate land for roadway right of way, provide traffic signalization, and provide other transportation and transportation-related facilities such as sidewalks and bike paths, the Property is assigned a concurrency value of four (4) dwelling units per gross acre of residential land use and twenty thousand square feet of gross building area per gross acre of nonresidential land use, as referenced in section (G)1.(a) of this Agreement. If development of the Property is determined to be subject to any additional concurrency requirements in the future, such requirements will be satisfied as provided by the Leon County Concurrency Management Policies and Procedures Manual, revised on November 30, 2004 ("2004 Concurrency Manual"). At the time of application for PUD Concept Plan approval, NCA will provide the COUNTY with a traffic study using methodologies mutually agreed upon by the COUNTY and NCA, to reflect such trips associated with the project as reflected in the PUD Concept Plan, and the COUNTY will encumber such project demand, update the concurrency management system to reflect project demand, and issue a certificate of concurrency for the project, pursuant to the 2004 Concurrency Manual.

(b) Development opportunities in Leon County's Northwest Quadrant are constrained by a presently unfunded need to widen Capital Circle Northwest from the Property's northern boundary south to U.S. 90. Notwithstanding the provisions of the above paragraph, NCA will incorporate within the TPA PUD a dedication to the COUNTY of sufficient right-of-way ("ROW Dedication") along the Property as reasonably required by the COUNTY Public Works Department to widen Capital Circle Northwest to six (6) lanes consistent with applicable Florida Department of Transportation ("FDOT") design standards. The ROW Dedication only includes the amount of land sufficient to construct up to 6 lanes of roadway and does not include land to accommodate the surface or stormwater management system to serve this portion of Capital Circle Northwest. Signalization of the Property access points to Capital Circle Northwest, if and when warranted by FDOT, shall be paid for by NCA. The location of

the ROW Dedication will be determined based on consideration of the location and configuration of land uses and development on the Property and applicable FDOT standards. The COUNTY will consider varying parking, setback, and other site plan and design requirements in the Land Development Code as necessary to facilitate and enhance development of the portions of the Property having frontage on Capital Circle Northwest.

(c) All plans for roadway extensions, signalization and internal roadways to be dedicated to the COUNTY shall be reviewed and approved by the COUNTY Public Works Department. In the event NCA agrees to advance funds or construct infrastructure that would offset impacts from development activities other than activities occurring on the Property, the COUNTY agrees that NCA is entitled to recover such advanced funding or infrastructure costs in the form of concurrency or impact fee credits or the reimbursement of such funds from the COUNTY, as provided in the 2004 Concurrency Manual.

(d) Access to the Property from Capital Circle Northwest shall be established through the TPA PUD process. As part of the TPA PUD approval process, the COUNTY agrees to consider granting approval for no less than two, and up to three, access points on each side of Capital Circle Northwest to provide access to the Property, provided applicable FDOT access permitting requirements are met.

4. Fire Station. As part of the TPA PUD, NCA will dedicate to the COUNTY three (3) useable acre(s) of land adjacent to a collector roadway for the construction of a fire station at such location as mutually agreed by NCA and the COUNTY. NCA will not be obligated to dedicate such land if NCA and the COUNTY cannot reach agreement on the location of the land.

5. Stormwater Management.

(a) Regional/Multi-site Stormwater Management Facility. Subject to mutual agreement by NCA and the COUNTY on the location, number of acres, design standards, and other matters such as impact fee credits or credits for open space, landscape, natural area, and other requirements, NCA may dedicate to the COUNTY land for access to and the construction and operation of a regional/multi-site stormwater management facility to detain, retain, and treat stormwater from the Property and the widening of Capital Circle Northwest adjacent to the boundaries of the Property. In the event such an agreement is reached, the COUNTY shall give NCA credit, as provided in Section 10-208 of the Land Development Code, toward the landscape requirements in Section 10-257 for the area of any regional/multi-site stormwater management facility located on the Property, and may grant variances as necessary and as provided under the Land Development Code to give NCA credit toward the natural areas requirements in Section 10-258 for the area of any regional/multi-site stormwater management facility located on the Property. The COUNTY also shall give NCA credit toward meeting open space requirements established in the PUD for the area of any regional/multi-site stormwater management facility located on the Property.

(b) Stormwater Management Facility on Property. In the event NCA and the COUNTY do not reach agreement as provided above regarding a regional/multi-site stormwater management facility, the COUNTY shall nonetheless give NCA credit as provided in Section 10-208 of the Land Development Code, toward the landscape area requirements in Section 10-257 for the area of any stormwater management facility located on the Property, and may grant variances as necessary and as provided under the Land Development Code to give NCA credit toward the natural areas requirements in Section 10-258 for the area of any stormwater management facility located on the Property. NCA also shall be given credit toward meeting open space requirements established in the PUD for the area of any stormwater management facility located on the Property.

(F) DEVELOPMENT APPROVAL PROCESS.



1. Residential Subdivision Approval. Subsequent to the COUNTY approval of the PUD Concept Plan, the COUNTY agrees that at the time of subdivision of the Property, an application may be submitted for, and the COUNTY shall, if the application meets all applicable requirements, render a development order approving a single family residential subdivision which would allow clustering of residential development to protect open spaces and environmentally sensitive areas and to incorporate natural areas and other open space into the subdivision design.

2. Open Space and Natural Areas Requirements Satisfied in Residential Areas. The objectives of the TPA land use designation are to foster efficient, compact development and to discourage automobile use within a TPA. Consistent with these objectives, the COUNTY encourages, but does not require, NCA to satisfy the applicable natural area and open space requirements for development of the Property within areas designated for residential land use on the Conceptual Use Plan so that the commercial, office, and community services and facilities/institutional use areas can be developed at greater density and intensity without having to meet natural area or open space requirements.

3. The parties further agree as follows:

(a) The PUVI is required.

(b) The TPA PUD may be reviewed simultaneously with review of this Agreement. Representatives of NCA and the COUNTY agree to cooperate and make a good-faith effort to provide for expeditious submittal of information and staff review of the project.

(c) The Natural Features Inventory and Environmental Impact Analysis shall be submitted and processed simultaneous with the TPA PUD so that variance requests, if

any, and policy discussions, if any, may be based upon all pertinent data and considerations and presented at the same time.

(d) Site and development plan review may take place simultaneously with other approvals, solely at NCA's risk and expense.

4. The parties acknowledge that the above process discussion is not a comprehensive list of all requirements of the COUNTY as it relates to the development. Failure to include a development step or requirement shall not indicate that such step or requirement is not required, nor shall it waive or release NCA's obligations of proceeding through the step or requirement. NCA may request, and if requested, the COUNTY shall consider adopting an ordinance designating the Property a regional activity center.

(G) ADDITIONAL PUD REQUIREMENTS.

In addition to the TPA PUD requirements in the Comprehensive Plan, the commitments in this Agreement and the PUD submittal requirements of Sections 10-915 and 10-1481 of the Land Development Code, the COUNTY shall require that each PUD submitted with the TPA address the following items:

1. Land Use.

(a) As required by the TPA designation pursuant to Comprehensive Plan Land Use Objective 6.1 [L] and corresponding policies, the TPA PUD Concept Plan for the Property shall include at least four of the following land uses: residential, open space, commercial, office, and community services and facilities/institutional uses. The TPA PUD Concept Plan shall provide approximately 192.10 gross acres of land for residential land uses, and approximately 113.46 gross acres for non-residential land uses (i.e., commercial, office, or community services and facilities/institutional). The term "gross acre" has the meaning set forth in Section 10-1 of the Land Development Code. Land

uses within the PUD shall be arranged to promote activity among compatible land uses consistent with the Conceptual Use Plan.

(b) Open space use shall meet the following definitions and requirements, unless otherwise required by COUNTY regulations. As provided herein, areas designated as open space shall be credited towards landscape, natural areas, and other requirements of the Leon County Environmental Management Act ("EMA"). Any open space requirements established in the TPA PUD, may, depending upon the use of the property, be credited toward the natural area requirements of the EMA.

(i) Common Open Space. Those areas not contained within a street right-of-way or individual lot shall be designated as common open space and may be classified as either passive recreational open space or active recreational open space, depending on the nature, use, or activities within the open space. Common open space includes areas dedicated for park use. Residents living or working within the Property shall have reasonable access to all common open space areas.

(ii) Passive Recreational Open Space. Common open space comprised of wooded or cleared areas that may contain formally designed trails, informally designed footpaths, or picnic areas, or conservation areas set aside for management and preservation, shall be provided as passive recreational open space. NCA may receive credit toward the landscape area requirement in Section 10-257 and the natural area requirement in Section 10-258 of the Code for passive recreational open space areas, provided the applicable requirements in Section 10-258 of the Code are met.

(iii) Active Recreational Open Space. These areas may include recreational amenities commonly associated with more active use such as exercise trails.

(iv) Dedication of Area on Property for Park. As part of the TPA PUD process, NCA will dedicate to the COUNTY up to twenty-five (25) acres of land within the TPA PUD for park use, which may include sites for two junior major league baseball

fields. The location of the acreage dedicated for park use will generally be depicted in the TPA PUD Concept Plan. The dedication for park use will satisfy open space requirements of the PUD, and constitutes the open space land use for purposes of meeting the TPA land use type requirements in the Comprehensive Plan and Land Development Code. For all portions of the dedicated acreage that are devoted to passive recreational uses as described in subparagraph (ii) above, NCA will receive credit toward meeting the landscape requirements in Section 10-257 and the natural areas requirements in Section 10-258 of the Land Development Code.

## 2. Environment.

Pursuant to Section 10-187 of the Land Development Code, development of the NFA Property may alter degraded wetlands as part of an approved stormwater detention or retention system, and five percent (5%) of the total wetland area within the Property may, subject to regulatory permitting requirements, be impacted to construct new structures or roads. As part of the environmental permitting process for impacts to onsite wetlands, NCA may submit, and the County shall consider for approval, proposals to mitigate the additional loss of existing wetland functions through means other than creation, restoration, enhancement, or preservation of wetlands on the Property, such as the acquisition or preservation, and management of offsite lands or fee in lieu of mitigation, provided such proposals are consistent with the Comprehensive Plan at the time of site and development plan application review. The COUNTY encourages the preservation and restoration of large intact systems onsite consistent with the Conceptual Use Plan, and would encourage use of innovative mitigation opportunities as a means of securing environmentally sensitive lands within the COUNTY, such innovative mitigation plans may only be approved after being considered by the County Commission. The COUNTY shall use the Uniform Mitigation Assessment Methodology (UMAM) to determine if the proposed mitigation adequately offsets the functions that would be lost as a result of the additional proposed wetland impacts. If, as part of review

and approval of offsite mitigation, NCA advances fees or otherwise provides mitigation in excess of that required using the UMAM, the COUNTY shall make provisions so that NCA will recapture such excess mitigation in the form of impact fee credits, credits from open space, landscape or native area requirements or from fee in lieu of mitigation from third party landowners who utilize such excess mitigation to offset their project's impacts to wetland functions.

3. Transportation.

Transportation plans for the PUD shall identify bicycle and pedestrian circulation and shall incorporate measures to mitigate conflicts between vehicles and cyclists and pedestrians. Roadway design standards shall promote bicycle and pedestrian safety. Pedestrian and bicycle movement shall be facilitated by sidewalks and bike paths which shall be required on one side of all local public and private streets and open space and paths throughout the site.

4. Design. Design standards shall be established in the Conceptual TPA PUD for all land uses identified above. The intent of the standards is to create attractive developments and accompanying signage which provide convenient bicycle and pedestrian access, compatibility with adjoining land uses, aesthetic parking areas and reduced opportunities for criminal activity. At a minimum, these design standards shall address building materials, signage, treatment of service areas and service functions, parking layout and amount of parking permitted per acre, landscaping, lighting, bicycle and pedestrian amenities and access.

(H) PERMITS.

Failure of this Agreement to address a particular need for a permit, a permit condition, term, or restriction, shall not relieve NCA from the necessity of complying with law governing permitting requirements, terms, or restrictions. This Agreement shall not be used to influence any permitting decision except as specifically provided herein

nor may it be used as the basis for a claim of vested rights to any amount of development on the Property.

(I) SILVICULTURAL ACTIVITIES.

The Property has been historically, and is currently, used in active silviculture operations. The County agrees that such existing operations may lawfully continue on the Property, if located outside of areas designated as preservation or conservation areas in the approved PUD Concept Plan, until such time as the Property is fully developed, or until issuance of site and development plan approval for the specific portions of the Property on which silvicultural operations are being conducted. NCA agrees that the historical silvicultural operations that have been conducted on the Property will not be expanded, unless otherwise permitted by the COUNTY, as applicable. Nothing in this Agreement shall be construed to disallow NCA from applying for a silvicultural permit authorizing expanded operations on the Property.

(J) BINDING EFFECT.

The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this document.

(K) EFFECTIVE DATE.

Within fourteen (14) days of approval of this Agreement, the COUNTY shall record the Agreement in the Public Records of Leon County. Within fourteen (14) days of recordation, the COUNTY shall submit a copy of the Florida Department of Community Affairs ("DCA"). This Agreement shall become effective thirty (30) days after submittal to DCA.

(L) FURTHER ASSURANCES.

Each of the parties to this Agreement shall execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, all such further acts and assurances as shall be reasonably requested by the other party in order to carry out the intent of this Agreement and give effect to it without in any manner limiting their specific rights and obligations as forth herein.

(M) NOTICES.

Any notices or reports required by this Agreement shall be sent to the following:

As to Leon County: Leon County Department of  
Growth and Environmental Management  
ATTN: Gary Johnson  
3401 Tharpe Street  
Tallahassee, Florida 32312

With a copy to: Leon County Attorney's Office  
Attention: Herbert Thiele  
Leon County Courthouse  
301 South Monroe Street  
Tallahassee, Florida 32301

As to NCA: North 10 Capital Associates, Ltd.  
c/o Douglas J. Rillstone, P.A.  
Broad & Cassel  
215 South Monroe Street, Suite 400  
Tallahassee, FL 32301

With a copy to: James Satofsky

15

7140 Lions Head Lane  
Boca Raton, FL 33496

(N) SEVERABILITY.

If any word, phrase, clause, section, or portion of this Agreement shall be held invalid by a court of competent jurisdiction, such portion or word shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement.

(O) LAWS.

This Agreement shall be governed by and construed in accordance with laws of the State of Florida.

(P) ENFORCEMENT.

In the event of a breach of this Agreement by a party, the other may sue to enforce this Agreement and the prevailing party shall be entitled to payment of attorney's fees and costs by the non-prevailing party.

(R) APPROVAL.

This Development Agreement was approved by LEON COUNTY after two (2) public hearings before the County Commission on \_\_\_\_\_ and \_\_\_\_\_, 2005.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Agreement as of the dates set forth below.

SIGNED, SEALED AND DELIVERED



In the presence of:

NORTH 10 CAPITAL ASSOCIATES, LTD.,  
A Florida Limited Partnership

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Printed Name:

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, \_\_\_\_\_  
for NORTH 10 CAPITAL ASSOCIATES, LTD., A Florida Limited Partnership, who is  
personally known to me or who has produced \_\_\_\_\_  
as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Printed Name

My commission expires:

ATTEST:

Bob Inzer,  
Clerk of Courts,  
Leon County, Florida

Attest: \_\_\_\_\_  
Print Name: Bob Inzer

LEON COUNTY, FLORIDA

By: \_\_\_\_\_  
Cliff Thael  
Chair,  
Board of County Commissioners

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_  
Herbert W.A. Thiele

Date: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2005, by \_\_\_\_\_, as \_\_\_\_\_ for LEON COUNTY, FLORIDA, A political subdivision of the State of Florida, who is personally known to me or who has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
Printed Name  
My commission expires: